

Erik A. Christiansen (USB 7372)  
Hannah J. Ector (USB 17980)  
**PARSONS BEHLE & LATIMER**  
201 South Main Street, Suite 1800  
Salt Lake City, Utah 84111  
Telephone: (801) 532-1234  
Facsimile: (801) 536-6111  
EChristiansen@parsonsbehle.com  
HEctor@parsonsbehle.com

John S. Worden (CA SBN 142943) (*Admitted Pro Hac Vice*)  
Sarah E. Diamond (CA SBN 281162) (*Admitted Pro Hac Vice*)

**VENABLE LLP**  
2049 Century Park East, Suite 2300  
Los Angeles, CA 90067  
Telephone: (310) 229-9900  
Facsimile: (310) 229-9901  
JSWorden@venable.com  
SEDiamond@venable.com

*Attorneys for Plaintiffs Capana Swiss Advisors AG and  
AmeriMark Automotive AG, and Third-Party Defendants  
Shaen Bernhardt, Martin Fasser Heeg, and Stefan Kammerlander*

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**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF UTAH, CENTRAL DIVISION**

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CAPANA SWISS ADVISORS AG, a Swiss corporation; AMERIMARK AUTOMOTIVE AG, a Swiss corporation,

Plaintiffs,

v.

RYMARK, INC., a Utah corporation;  
NICHOLAS THAYNE MARKOSIAN, an individual;  
JOHN KIRKLAND, an individual;  
and VICKY SMALL, an individual,

Defendants.

**DECLARATION OF SARAH E.  
DIAMOND IN SUPPORT OF  
PLAINTIFFS' OPPOSITION TO  
DEFENDANTS' MOTION FOR  
LEAVE TO FILE SECOND  
AMENDED COUNTERCLAIM AND  
AMENDED THIRD-PARTY  
COMPLAINT [DKT. NO. 180]**

Civil Case No. 2:23-cv-00467  
Judge: Hon. Ted Stewart  
Magistrate Judge: Hon. Cecilia M. Romero

**DECLARATION OF SARAH E. DIAMOND**

I, Sarah E. Diamond, declare as follows:

1. I am an attorney in the law firm of Venable, LLP, and I am admitted *pro hac vice* in this Court. I am among the counsel of record for Plaintiffs Capana Swiss Advisors, AG, and AmeriMark Automotive AG (collectively, “Plaintiffs”) in the above-referenced litigation. This declaration is submitted in support of Plaintiffs’ Opposition to Defendants’ Motion for Leave to File Second Amended Counterclaim and Amended Third-Party Complaint. I have personal knowledge of the facts set forth in this declaration. If called upon to testify, I could and would testify competently to the truth of the matters stated herein.

2. Attached hereto as **Exhibit 1** is a true and correct copy of the September 16, 2020 letter from Chad Pehrson to AmeriMark Group AG, Nicolai Colshorn, Miron Leshem, David A. Hesterman, and Ananda Capital Partners, Inc., bates stamped PL\_000000585-86, and marked as Exhibit 73 at the August 8, 2024 deposition of Defendant Nicholas Markosian.

3. Attached hereto as **Exhibit 2** is a true and correct copy of a November 8, 2016 email from Defendant Nicholas Markosian to Jen Markosian, bates stamped RYMARK2646-47.

4. Attached hereto as **Exhibit 3** is a true and correct copy of a May 6, 2016 email from Defendant Nicholas Markosian to Daniel Gysi and Miron Leshem, bates stamped RYMARK001944-45.

5. Upon information and belief, Felix Kappeler resides in Switzerland and is a Swiss citizen.

6. Upon information and belief, Frank Hueser resides in Germany and is a German citizen.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

Dated this 10th day of December, 2024.

/s/ Sarah Diamond  
Sarah Diamond

**CERTIFICATE OF SERVICE**

I hereby certify that on December 10, 2024, I filed the foregoing was filed with the Clerk of Court using the Court's CM/ECF filing system and which sent electronic notification of the filing to counsel of record in this matter.

/s/ *Hannah Ector*  
Hannah Ector